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|---|-------------|----------------------|---------------------|------------------|
| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/550,390 | 09/22/2005 | Jonathan Paul Fuge | 125427 | 1291 |
| 25944 | 7590 | 02/27/2007 | EXAMINER | |
| OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320 | | | GUADALUPE, YARITZA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2859 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 02/27/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|--|---------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/550,390 Examiner Yaritza Guadalupe-McCall | FUGE ET AL. Art Unit 2859 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 September 2005 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>9/22/05; 3/3/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102 (b) as being anticipated by Jordil et al. (US 6,952,883).

With respect to claim 1, Jordil et al. discloses a probe (1, 12) for sensing the position of an object on positioning apparatus, comprising a first electric circuit (2) responsive to the probe attaining a sensing relationship with the object (See Column 4, lines 46 – 50); a power supply (implied by the presence of an on/off button as recited in column 4, lines 42 – 45) for energizing said first circuit; a sensor (i.e. measuring system as disclosed in column 5, lines 23 - 65) responsive to movement of the probe and arranged to cause the power supply to be connected to said first electric circuit when movement is detected; characterized in that a movement-discriminating circuit (measure mode switch) is connected to said sensor, the movement-discriminating circuit discriminating a movement indicating that the probe is to be used from other movements.

Regarding claim 8, Jordil et al. teaches a probe (1, 12) for sensing the position of an object on positioning apparatus, comprising a first electric circuit (2) responsive to the probe attaining a sensing relationship with the object (See Column 4, lines 46 – 50); a power supply (implied by the presence of an on/off button as recited in column 4, lines 42 - 45) for energizing said circuit; a sensor (i.e. measuring system as disclosed in column 5, lines 23 - 65) responsive to movement of the probe and arranged to cause the power supply to be connected to said circuit when movement is detected; characterized in that said sensor is responsive to linear acceleration (since the probe is intended for linear measurements).

3. Claims 1, 3 – 7 and 9 - 12 are rejected under 35 U.S.C. 102 (b) as being anticipated by McMurtry (US 4,599,524).

With respect to claim 1, McMurtry discloses a probe (16) for sensing the position of an object on positioning apparatus, comprising a first electric circuit (30) responsive to the probe attaining a sensing relationship with the object (See Abstract); a power supply (31) for energizing said first circuit; a sensor (33) responsive to movement of the probe and arranged to cause the power supply to be connected to said first electric circuit when movement is detected; characterized in that a movement-discriminating circuit (36) is connected to said sensor, the movement-discriminating circuit discriminating a movement indicating that the probe is to be used from other movements.

Regarding claim 3, McMurtry also teaches a probe wherein the movement-discriminating circuit discriminates rotation of the probe from linear accelerations, connecting the power supply to the first electric circuit when rotation is detected (See Column 2, lines 55 – 64).

In regards to claim 4, McMurtry further shows a probe wherein the movement-discriminating circuit detects whether a signal indicating rotation is received from the sensor over a period or periods of time corresponding to only a part or parts of a full revolution of the probe (See Column 2, lines 55 – 64).

With respect to claim 5, McMurtry discloses a probe wherein the movement-discriminating circuit is responsive to receipt of a signal (26) corresponding to a predetermined signature relating to movement (i.e. rotation) of the probe during such movement.

In regards to claim 6, McMurtry teaches a probe wherein the predetermined signature signal corresponds to rotation of the probe (caused by the rotation of the spindle 10).

With regards to claim 7, McMurtry also shows a probe wherein the predetermined signature signal corresponds to a predetermined sequence of movements of the probe or of vibrations of the probe while it is moved (See Column 2, lines 20 – 48).

With respect to claim 9, McMurtry discloses a probe wherein the sensor is a switch (33).

In regards to claim 10, McMurtry further teaches a probe wherein the sensor is also arranged to disconnect the power supply from said first electric circuit when a further movement of the probe is detected (See Column 2, lines 52 – 64).

Regarding claim 11, McMurtry also discloses a probe wherein a timer (relay 36) is provided which disconnects the power supply from said first electric circuit a predetermined period after it was connected, or after a predetermined period of non-use of the probe.

With regards to claim 12, McMurtry shows a probe wherein the power supply is a battery (31).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMurtry (US 4,599,524).

McMurtry discloses a probe as stated in paragraph 3 above.

McMurtry does not disclose the acceleration sensor as stated in claim 2. McMurtry does not disclose the sensor being particular for linear acceleration as stated in claim 8.

Regarding claims 2 and 8 : McMurtry teaches a probe, as stated above, having a sensor (33) being a switch that closes and establishes a connection with the circuit (30) to actuate the probe. The use of the particular type of sensor claimed by applicant, i.e., acceleration sensor, absent any criticality, is considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as a connection is established with the circuit in response to the probe movement, as already suggested by McMurtry, 2) the sensor claimed by Applicant and the sensor used by McMurtry are well known alternate types of sensors which will perform the same function, if one is replaced with the other, of establishing a connection with the circuit in response to the movement of the probe, and 3) the use of the particular type of acceleration sensor by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of sensors that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to establish a connection with the circuit in response to the movement of the probe as already suggested by McMurtry.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application.

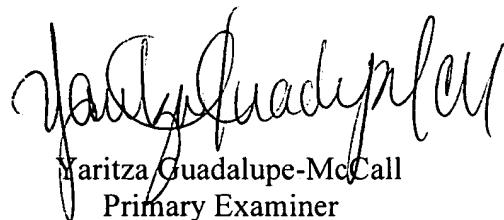
- a. Fuchs et al. (US 5,526,576)
- b. Collingwood et al. (US 7,145,468)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YGM
February 20, 2007
Art Unit 2859



Maritza Guadalupe-McCall
Primary Examiner